

**STATE OF MICHIGAN**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

**In the matter of**

**XXXXXX**

**Petitioner**

**v**

**File No. 121839-SF**

**Blue Cross Blue Shield of Michigan**

**Respondent**

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**Issued and entered**  
**this \_\_15th\_\_ day of November 2011**  
**by R. Kevin Clinton**  
**Commissioner**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On June 10, 2011, XXXXX, M.D., authorized representative of his patient XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under Public Act No. 495 of 2006, MCL 550.1951 *et seq.* The Petitioner is a retired XXXXX County employee who receives health care coverage under a self-funded plan administered by Blue Cross Blue Shield of Michigan (BCBSM). The Petitioner's health care benefits are defined in the BCBSM *Community Blue Group Benefit Certificate* (the certificate).

Act 495 authorizes the Commissioner to conduct external reviews for state and local governmental employees and retirees who receive health care benefits in a self-funded plan. Under Act 495, the reviews are conducted in the same manner as reviews conducted under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* On June 17, 2011, after a preliminary review of the material submitted, the Commissioner accepted the case for external review.

The Commissioner appointed an independent review organization (IRO) to analyze the medical issues in this review as required by section 11(6) of PRIRA, MCL 550.1911(6). The IRO provided its analysis and recommendations on July 5, 2011. (A copy of the complete report is being provided to the parties with this Order.)

## **II. FACTUAL BACKGROUND**

On June 18, 2009, the Petitioner underwent panniculectomy surgery and later developed a wide and painful anterior panniculectomy scar once it healed. On July 13, 2010, she underwent a revision surgery to correct this condition. The amount charged for this care was \$4,447.00.

BCBSM denied coverage for the surgery ruling that it was not medically necessary. The Petitioner appealed the denial through BCBSM's internal grievance process. After a managerial-level conference on April 6, 2011, BCBSM maintained its original position and issued a final adverse determination dated April 20, 2011.

## **III. ISSUE**

Did BCBSM properly deny coverage for the Petitioner's revision surgery?

## **IV. ANALYSIS**

The BCBSM certificate provides coverage for services when they are medically necessary and appropriate. BCBSM denied coverage, asserting that the surgery in question was not medically necessary. The IRO appointed by the Commissioner analyzed the question of whether the Petitioner's July 13, 2010, revision surgery was medically necessary. The IRO's reviewer is a physician in active practice who is certified by the American Board of Plastic Surgery and is a Diplomate of the American Board of Surgery. The reviewer is a member of the American Society of Plastic and Reconstructive Surgeons and the American Society for Surgery of the Hand. The reviewer's report included the following analysis and conclusion:

The enrollee had a widespread and depressed scar. The standard of care is to perform scar revision to treat scars that are causing functional problems (e.g., restriction in range of motion, severe pain requiring analgesics, etc.). Scar revision is appropriate, but not medically necessary when performed to improve scar appearance.

According to the Milliman Care Guidelines, scar revision is medically necessary to treat scars that have been present for one (1) year, cause loss of joint range of motion or significant pain, and have failed to improve with at least one (1) medical treatment. Dr. XXXXX office note, dated May 26, 2010, does not document pain from the scar or any restriction in range of motion (ROM).

\* \* \*

The enrollee had a widespread scar, but Dr. XXXXX's office note dated May 16, 2010 does not document any functional problems caused by the scar. His appeal letter after the procedure states that the scar was painful, but the office notes

provided for review do not provide any indication that the scar was painful or that the enrollee was taking analgesics for scar pain.

In addition, the records do not document any functional problems such as restricted ROM. The scar revision improved the appearance of the enrollee's abdomen, but was not required for health or medical indications.

It is the recommendation of this reviewer that the denial issued by Blue Cross Blue Shield of Michigan for the scar revision status post panniculectomy performed on July 13, 2010 be upheld.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO's recommendation is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination the Commissioner, must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16) (b). The IRO reviewer's analysis is based on extensive expertise and professional judgment and the Commissioner can discern no reason why the recommendation should be rejected in the present case.

The Commissioner therefore finds that BCBSM's denial of coverage for the Petitioner's July 13, 2010, revision surgery was consistent with the terms of the certificate.

#### **V. ORDER**

Blue Cross Blue Shield of Michigan's final adverse determination of April 20, 2011, is upheld. BCBSM is not required to provide coverage for the Petitioner's revision surgery of July 13, 2010.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

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R. Kevin Clinton  
Commissioner